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brackets. The only cases where this has not been done seem to be where the change or development in the law has been due to decision, not to statute. Thus the important case of *Re Rouse*, 94 Fed. Rep. 84, though cited in the second part, is not cited under § 125, where Judge Lowell discusses the question to which it relates. So *Re Scott*, 1 N. B. N. 161, and *Re Sapiro*, 92 Fed. Rep. 340, cited in the second part, are appropriate to the discussion in § 159 of the first part. Again, some matters which are discussed in the first part — for instance, many of the old acts of bankruptcy — are obsolete under the present act. It must, therefore, be conceded that the arrangement of the book is a little inconvenient, necessitating as it does an examination in two places to get a complete survey of any topic. But this inconvenience was unavoidable, as Judge Lowell died before the present act was passed. We think Mr. Lowell has pursued the best possible course in preparing his father's work for the press. That work is the work of a master, and should be given, as it has been without change. The bracketed notes of Mr. Lowell will in general prevent any misconception; a little care on the part of the reader will do so in any event.

Mr. Lowell's own share of the book, which is not small, including as it does many citations added in brackets to the notes of the first part, has been done with admirable thoroughness and great discrimination. It is pleasant to hope that he gained something of this in the Law School of which he is a recent graduate, — not all from inheritance. In completeness of treatment and fulness of citations, not only of the Federal decisions, which are in most text-books, but of the decisions of the English and State courts, which frequently are not, the book is unrivalled by any of the large crop of books on bankruptcy. The text of the four United States Bankruptcy Acts, which have been in force at various times, the General orders and Forms in Bankruptcy under the present act, and an excellent index, complete the book.

S. W.

THE CONSTITUTION OF THE UNITED STATES. A critical discussion of its genesis, development, and interpretation. By John Randolph Tucker. 2 vols. Chicago: Callaghan & Co. 1899. pp. xxxiii, 1015.

This treatise on constitutional law is of peculiar interest, because it gives a thoroughly learned and scholarly presentation of the views of a school radically different from the text-writers with whom we are most familiar; Story, for instance, and Cooley. The author was a Southerner, a Virginian; and his work makes plain that he breathed the same air as the Southern federalists of the old school, the Tuckers and the Randolphs. The federalist characteristics of the work are to be emphasized; but the historian sees, in occasional turns taken by the path of the reasoning, the influence of the pervasive doctrines of State rights.

A generally large view of the powers of the national government is constantly taken. The power of Congress to emit bills of credit, though nowhere expressly conferred, is found to be implied in the grant of power to borrow money. p. 514. And it is hardly fair to say that a narrower construction is used when the power to issue legal tender notes is doubted. p. 515. That doubt has been shared by men of great ability in all parts of the country. A suggestion, however, may be hinted at, that the argument against the legal tender notes — that they were prohibited

to the States, for the States had all powers not prohibited; that no prohibition upon Congress was necessary, for Congress had no powers not delegated—savors a little of State rights. But this suggestion is made somewhat apologetically.

The favor which is shown to the decision of *Prigg v. Pennsylvania*, 16 Pet. 539, and to the rule there asserted that the power to legislate for the return from one State to another of fugitives from labor or service, was exclusive in Congress, is a further indication of the generally broad attitude. p. 632. The contrary view had met with some acceptance, that the subject matter was one of interstate courtesy, and that the surrender of the fugitives was discretionary with the States, in the sense that it could be compelled by no higher power. But the confidence in this contrary view among the advocates of State rights was lessened by the thought that here lurked a peril to slavery, and that as a practical matter a fugitive slave was more likely to be recovered if the recovery were controlled by Congress.

The large view taken of the powers of Congress is shown without possibility of qualification in regard to the control of interstate commerce. This control is declared to be exclusive in Congress, whether or not that body has legislated upon the subject matter. p. 536. The conclusion reached is enforced with determination; it must be admitted that the various phases are hardly dealt with in sufficient detail, and doubtful stands are sometimes taken without enough elaboration to suggest the doubt. Then the Southern point of view appears once more, in the discussion of the case of *Groves v. Slaughter*, 15 Pet. 449, in which a State law prohibiting importation of slaves was upheld. The author goes farther, and maintains that not only the inaction of Congress, but even its positive action, is unequal to the task of compelling the admission of slaves into an unwilling State. p. 555. It is worth noting that the author lays no stress on the notion that slaves were unlike all other articles of commerce under the commerce clause, a class by themselves; on the contrary, he likens them to other articles of commerce of a dangerous nature, which a State has the undoubted right to exclude. There is a grim humor in the analogy drawn between slaves and dynamite.

As a final illustration of the two forces controlling the conclusions reached by the author, his position upon the acquisition and government of territory is worthy of attention. Acquisition of territory he allows, without the suggestion of any limitation; and one of the main reasons why he allows it is, that otherwise an attribute of sovereignty would be lost, for the States surely have no such power. pp. 605-7. Acquisition by treaty is permitted, because a treaty has always been the commonest method by which the nations of the world have acquired territory. Acquisition is also allowed under the clause for admitting new States, and the admission of Vermont is regarded as a direct authority for the admission of Texas—a position, by the way, of very doubtful correctness, in view of the peculiar situation of Vermont. On the other hand, the author refuses to concede that the treaty power includes the power to cede the territory of any State, and he seems to ignore the very argument which he has just used in favor of the acquisition of territory, the argument, that if the nation cannot do this act, no power can do it, and an attribute of sovereignty is lost to the United States. p. 631.

With all of the author's conclusions it is impossible to agree; yet in some instances they are fully as commendable as the doctrines to-day enun-

ciated by the federal courts. The great merit of the work is that it accords large powers to the national government and at the same time has a due regard for the self-government of the States. There is no present danger that the national powers will be belittled; there is danger that the rights of States will be sometimes overlooked. The result to which the law should tend is the recognition of broad national powers together with the recognition of broad powers in the State so long as the latter powers do not hamper the former. As a step in this direction, the present work has a distinct reason for its existence.

J. G. F.

QUESTIONS AND ANSWERS FOR BAR-EXAMINATION REVIEW. By Charles S. Haight and Arthur M. Marsh. New York: Baker, Voorhis & Co. 1899. pp. xlvii, 506.

To avoid possible misunderstanding it may be stated at the outset that this book is not written for the information of laymen, nor as a last resort for the student whose acquaintance with the law is merely colorable. It presupposes a reasonable knowledge of the subjects treated, and is intended to serve simply as a basis for the intelligent sort of reviewing which consists in getting the results of previous study under control for immediate and effective use; and the authors have succeeded in combining the concise statement of legal principles with their practical application in a way that seems admirably adapted for this purpose. The questions are largely in the form of concrete cases illustrating important legal rules, and the answers are clear and precise statements of the law. Naturally there is not much criticism or exposition, but the theory of the law is indicated sufficiently for the purposes of any one who has had a fair amount of legal training. Questionable reasons are given for a few of the rules, but as they are usually supported by respectable authority, the defect is hardly a serious one with respect to bar-examinations. It may be suggested that too many of the questions are based directly on the facts of leading cases. The efficiency of the book in other directions would not suffer and the questions would be more valuable as a test of the student's practical grasp of principles, if he were required to apply them to unfamiliar facts.

In view of the compactness of the volume, and the fact that its table of contents includes the respectable total of twenty titles, it is perhaps unfair to quarrel with the writers for omissions of any but the first importance, yet it occurs to one that separate chapters devoted to Suretyship and the Law of Persons are needed to make the book complete. Serious gaps in the treatment of particular subjects are surprisingly few, and no errors of substantive law have been discovered. Except for the chapter on the New York Code, its usefulness will not be limited to any particular section of the country. The law is stated for all American jurisdictions as far as possible, and where it is impracticable to give all the opposing rules the fact of the conflict is noted. The citations are numerous and, on the whole, well chosen; and there is a complete and detailed index. While the book has the defects necessarily incident to merciless condensation, the work of pruning has been done with care and discrimination.

F. E. H.